

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KENNETH B. SCALES,	:	CIVIL NO. 3:10-CV-00333
	:	
Plaintiff	:	(Chief Judge Kane)
	:	
v.	:	(Magistrate Judge Smyser)
	:	
JEFF WITHERITE, et al.,	:	
	:	
Defendants	:	

REPORT AND RECOMMENDATION

The plaintiff, a state prisoner proceeding *pro se*, commenced this action by filing a complaint. On March 28, 2011, he filed an amended complaint. The case concerns the medical care that the plaintiff received in prison.

On September 30, 2011, three of the five remaining defendants filed a motion for summary judgment, a statement of material facts, a brief, and documents in support of the motion. After the plaintiff failed to file a timely brief in opposition, the plaintiff was ordered to show cause why the motion for summary judgment should not be granted. In response, the

plaintiff filed a letter in which he indicates that he no longer wants to pursue this case.

Given the plaintiff's statement that he no longer wants to pursue this case, we recommend that the case be dismissed pursuant to Fed.R.Civ.P. 41(a)(2).

/s/ J. Andrew Smyser

J. Andrew Smyser
Magistrate Judge

Dated: November 16, 2011.